



Washington, D.C. 20505

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APPROVED FOR
RELEASE DATE:
18-Aug-2010

Reference: F-2007-01615

Dear Mr. Zaid:

This is a final response to your 18 September 2007 appeal of our denial of your request for a waiver of fees for processing your Freedom of Information Act (FOIA) request described below:

Copies of any and all declarations or affidavits filed by the Director (or his designee) of the Central Intelligence Agency ("CIA") in the following lawsuits wherein the state secrets privilege was invoked:

- (1) **Heine v. Raus, 261 F. Supp. 570 (D.Md. 1966) or its progeny: 399 F.2d 785 (4th Cir. 1968), 305 F. Supp. 816 (D. Md. 1969), 432 F.2d 1007 (4th Cir. Md. 1970)**
- (2) **Halkin v. Helms, Civil Action No. 75-1773 (D.D.C.), 690 F.2d 977 (D.C. Cir. 1982)**
- (3) **Foster v. United States, 12 Cl. Ct. 492 (1987)**

The fee waiver provisions of the FOIA, as amended in 1986, mandate that two criteria must be met before consideration can be given to waiving or reducing properly assessable fees. These criteria are: (1) the disclosure of the information must be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the United States Government, and (2) the disclosure of the information is not primarily in the commercial interest of the requester [5 U.S.C. § 552(a)(4)(A)(iii)].

CIA promulgated regulations to implement the amended fee waiver provisions, pursuant to 5 U.S.C. § 552(a) (4)(A)(i), and incorporated into Agency regulations Department of Justice recommendations regarding the utilization of six analytical factors in making determination on fee waiver requests. These factors were published in CIA regulations (enclosed) at 32 C.F.R. § 1900.13.

Your request for a fee waiver was considered in light of the aforementioned regulations and statutory provisions. Since the records you are requesting are a) not likely to contribute significantly to public understanding of United States Government activities and operations, and b) as a matter of administrative discretion, the interest of the United States Government would not be served; your request for a fee waiver clearly fails to meet the first criterion necessary to obtain a waiver or reduction of fees.

Accordingly, based on the information you provided, the Agency must affirm the initial denial of your request for a fee waiver. Similarly, the Agency hereby affirms the initial determination to place your request in the "all other" category which means that you will be responsible for charges that recover the cost of searching for and reproducing responsive records (if any) beyond the first 100 pages of reproduction and the first two hours of search time, which will be furnished free.

As noted in our previous letter, we accepted your request and thus have already tasked the appropriate components to do a search on your topic, and we will notify you once we receive a response.

Sincerely,



Scott Koch
Executive Secretary, Agency Release Panel

